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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 2351 OF 2003
IN
SUIT NO. 1457 OF 1981

National Small Industries
Corporation Ltd., .. Plaintiffs.
vs.
Camber Haider Ali .. Defendant .

Ms. Usha Tiwari for the plaintiffs.
Mr. Subodh Joshi i/by Rajendra Mehta
for defendant.

CORAM : S.U.KAMDAR, J.

DATE : 18th January, 2006.

P.C.

. The present motion is taken out for setting aside the order dated 19.4.2001 passed by Deshmukh J. dismissing the suit for non-prosecution as none appeared for the plaintiffs in spite of the fact that the matter was listed on Board. The only ground which has been set out in the affidavit in support of the motion is that earlier advocate K.M. John was negligent in prosecuting the matter. I am not satisfied with the affidavit in support which

sets out the ground for setting aside the ex-parte order. I find that the public sector enterprises and the government who are the biggest litigants in this Court and having large number of proceedings pending are totally negligent in prosecuting the matters merely because the out-come of the suits does not affect the officers individually but affects the public exchequer. In matter after matter applications are taken out for restoration where matters are dismissed for default and offer is made that the costs may be imposed. This offer is also made only because the cost also comes from the public exchequer and not from the officers concerned who are absolute negligent in conducting their duty and prosecuting the proceedings in this Court. In the aforesaid circumstances, I am of the opinion that though in the interest of justice the suit be restored and the order be set aside but the same has to be on imposition costs of Rs. 10,000/- to be paid to the Maharashtra State Legal Services Authority. The Chairman of the plaintiffs is directed to conduct an enquiry in the present proceeding and fix the responsibility on the concerned officer and recover the costs from such a person after conducting the enquiry. The Chairman is also directed to file compliance report within a period of two months from today that the present order is complied with. Motion is made absolute on the aforesaid terms.